b.) Remarks

Claims 21 and 22 have been cancelled in order to reduce the issues. Additionally, claims 23 and 25 have been amended to recite the features of claim 31, 69 and 70. Claims 24 and 31 are amended to maintain their dependency, and claims 69 and 70 are amended to further limit the subject matter of an antecedent claim. Accordingly, no new matter has been added.

Claims 21, 23 and 24 are rejected under 35 U.S.C. §103(a) as being unpatentable over Suzuki (U.S. Patent No. 5,543,415) in view of Goodman & Gilman's: The Pharmacological Basis for Therapeutics (2001) 469.

In response, as relied upon in the Office Action, Goodman teaches that antidepressants generally are indicated for treating anxiety disorders, and Suzuki teaches various xanthine derivatives having anti-depressive activity, including compound 74. Therefore, according to the Examiner, it would have been obvious to use Suzuki's antidepressant to treat anxiety disorders.

As to claim 23, the adenosine A_{2A} receptor antagonist has above been limited to (E)-8-(3,4-dimethoxy-styryl)-1,3-diethyl-7-methylxanthine and the anxiety disorder has been limited to generalized anxiety disorder, obsessive-compulsive disorder, post-traumatic stress disorder, panic disorder, agoraphobia, specific phobia or social phobia.

Regarding Goodman & Gilman, the reference teaches the following:

(1) "Antidepressants, especially serotonin-reuptake inhibitors, also are employed in the management of post-traumatic stress disorder, marked by anxiety"[1];

(2) "For panic disorder, tricyclic antidepressants and MAO inhibitors, as well as high-potency benzodiazepines (notably alprazolam, clonazepam, and lorazepam; see Chapter 17) are effective in blocking the autonomic expression of panic itself"[2];

(3) "The serotonin-reuptake inhibitors also may be effective, but ß-adrenergic receptor antagonists, buspirone, and low-potency benzodiazepines usually are not, and bupropion can worsen anxiety"[3]; and lastly

(4) "The serotonin-reuptake inhibitors are agents of choice in obsessive-compulsive disorder ..... While their benefits may be limited, serotonin-reuptake inhibitors offer an important advance in the medical treatment of these often chronic and sometimes incapacitating disorders"[4].

From the above teaching, Goodman & Gilman's teaches that specific antidepressants may be used for treating severe anxiety disorders, such as PTSD, panic disorder, generalized anxiety disorder, social phobia and obsessive-compulsive disorder. However, as seen, "antidepressants" are not at all generally useful for treating such anxiety disorders. To the contrary, Goodman specifically teaches that particular anxiety disorders must be treated with particular antidepressants, characterized by their structure or mechanisms of operation.

---

1 See, lines 1-3 of p. 469, right column.

2 See, lines 11-14 of p. 469, right column.

3 See, lines 19-22 of p. 469, right column.

4 See, lines 24-34 of p. 469, right column.

Suzuki discloses that Compound A has anti-depressant activity from experimental data using animal modeling. However, since the mechanism of Suzuki's compound A is not known, it would not have been obvious as a matter of law to utilize it for treating any of the anxiety disorders recited in the pending claims.[5]

Moreover, in any event, Compound A is not a serotonin-reuptake inhibitor (c.f., Goodman points 1, 3 and 4), tricyclic antidepressant, MAO inhibitor or a benzodiazepine (c.f., Goodman point 2). To the contrary, the present invention is based Applicants' discovery that Compound A is useful for treating the recited specific anxiety disorders as shown in Test Examples 1 to 8.

In view of the above amendments and remarks, Applicants submit that the subject matter of the amended claims is not obvious over the prior art. Accordingly, all of the Examiner's concerns are now overcome and the claims are now in allowable condition. Reconsideration and allowance of this application is earnestly solicited.

Claims 23-25, 31, 69 and 70 remain presented for continued prosecution with rejoinder of nonelected combination claims 25, 69 and 70 being respectfully requested.

---

[5] Of course, it is irrelevant as a matter of law how Suzuki's antidepressant functions, since inherency of a claimed element is immaterial; that which is inherent in the prior art, if not known at the time of the invention, cannot form a proper basis for rejecting the claimed as obvious invention under section 103. *In re Shetty*, 195 USPQ 753, 756-57 (CCPA 1977).

None of the prior art indicates that Applicants' recited compound functioned as a serotonin-reuptake inhibitor or an MAO inhibitor. Plainly the compound is not tricyclic or benzodiazepine. The discovery it served to treat the anxieties recited in claim 23 was Applicants'.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

/Lawrence S. Perry/
Lawrence S. Perry
Attorney for Applicants
Registration No. 31,865

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
Facsimile: (212) 218-2200

LSP\ac

FCHS_WS 3435000_1.DOC